IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2684 of 2007(T)

PETITIONER:

M/S. BHAGEERATHA DEVELOPERS LTD.,
V.C.VALLEY, PHASE II, KAKKANADU, KOCHI-37,
HAVING PROJECT OFFICE AT EAST GATE APPARTMENTS,
MARUTHAMKUZHY, VATTIYOORKAVU,THIRUVANANTHAPURAM,
REP.BY ITS AUTHORISED SIGNATORY,CHANDRASEKHARAN K.
S/O.LATE K.K.NAMBIAR,AGED 57,AKSHYA,THRIKKAKARA.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENTS:

CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY,THIRUVANANTHAPURAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 2684 of 2007

Dated this 23rd day of January, 2007

JUDGMENT

Sri.N.Nandakumara Menon the learned Standing Counsel takes notice on behalf of the respondent Corporation. Sri.Manu V., the learned counsel for the petitioner submits that the apartments in question were actually constructed by the petitioner company, but it is seen that the assessment has been made in the name of the company by name Bhageeratha Constructions. According to Mr.Manu, there is no company by name Bhageeratha Constructions. The petitioner company came to know about the assessment order only when one of the Directors of the petitioner company was served with Ext.P2 demand notice. According to Sri.Manu it was the petitioner company who constructed the apartment and later the ownership over the apartment was transferred to the purchasers and the Corporation is not justified in making the demands on the directions of the petitioner company.

2. The learned Standing Counsel submits that the writ petition will not be maintainable in law. The Corporation is not aware of any transfer of the apartments. No notice under Section 240 has been served regarding the alleged transfer by the petitioner or by anybody. The counsel further submitted that the aggrieved party will have to pursue his statutory appellate remedies before invoking extraordinary jurisdiction of this court.

3. Having considered the rival submissions, I am of the view that the petitioner company should be directed to prefer an appeal against the assessment order. Going by the statute under Section 509 (2) of the Municipality Act to maintain any appeal it is obligatory that tax under demand is remitted in full. From Ext.P2 it it seen that tax under demand is Rs.12,03,889/-. Considering the special circumstances, which attend on this cases, the petitioner company is permitted to prefer an appeal under Section 509 (2) by remitting 50% of the above amount. If the petitioner company remits 50% of the tax amount of Rs.12,03,889/- within three weeks from today, and simultaneously prefers an appeal to the Standing Committee (Taxes) of the respondent Corporation, the Standing Committee

will entertain that appeal as one regularly filed on time and dispose of the appeal in accordance with law at the earliest. Till the disposal of the prospective appeal, no coercive steps will be initiated by the respondent against the petitioner or any of the Directors of the petitioner company.

PIUS C.KURIAKOSE
Judge

dpk